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TITLE VI, SOUTHERN EDUCATION FACES THE FACTS.

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THIS ARTICLE LISTS GUIDELINES PREPARED BY A CONSULTANT TO THE OFFICE OF EDUCATION TO AID SCHOOL AUTHORITIES IN THE SOUTH TO COMPLY WITH TITLE VI OF THE 1964 CIVIL RIGHTS ACT. THE TITLE REQUIRES COMPLIANCE IN DESEGREGATING THE SCHOOLS AS A PRECONDITION FOR FEDERAL FINANCIAL ASSISTANCE. SCHOOL DISTRICTS MUST CHOOSE EITHER TO (1) SUBMIT THE "FORM 441" ASSURANCE OF COMPLIANCE, (2) PRESENT A PLAN FOR DESEGREGATION, OR (3) FACE COURT ORDERS TO DESEGREGATE. THE GUIDELINES DESCRIBE THE REQUIRED INFORMATION WHICH THE STATES MUST SUBMIT TO THE OFFICE OF EDUCATION--A SUMMARY OF THE PRESENT RACIAL SITUATION IN THE DISTRICT SCHOOLS, TYPES OF DESEGREGATION PLANS, ADMINISTRATIVE PRACTICES AND PUBLIC NOTIFICATION FEATURES OF SUCH PLANS, AND POLICIES ON BUSES AND BUS ROUTES. THEY ALSO DISCUSS THE REQUIREMENTS FOR TEACHER AND STAFF DESEGREGATION AND THE RATE OF DESEGREGATION BY GRADE, AND NOTE THE ACT'S PROVISION FOR CONSULTANTS AND TECHNICAL ASSISTANCE. A SAMPLE OF AN OUTLINE FORM FOR COMPLIANCE INFORMATION IS INCLUDED IN THIS ARTICLE. THIS ARTICLE WAS PUBLISHED IN THE "SATURDAY REVIEW," MARCH 20, 1965. (NH)

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Title VI: Southern Education Faces the Facts

Title VI of the 1964 Civil Rights Act provides that racial discrimination must be ended in all programs that receive federal financial assistance. Responsibility for administering this provision for most of the federal educational programs lies with the Office of Education of the Department of Health, Education, and Welfare. Requests for federal support for these programs for the 1965-66 school year are now being prepared in thousands of communities in both the North and the South. And in the process, the full import of the Civil Rights Act is becoming clear.

The South today is a society in agonizing transition. Ancient traditions and attitudes are slowly changing before the onslaught of contemporary events. For a decade or more since the 1954 and 1955 Supreme Court decisions outlawing segregation in the schools, the South has been moving with more deliberation than speed in bringing Negro and white together in the classroom. Slowly, but inexorably, however, efforts to avoid change have been swept away by the courts. The inevitability of full compliance with the Supreme Court's decision has become progressively clearer as one alternative after another has been attempted and has failed. Now Title VI opens another major act in the drama of school segregation. As one Florida news headline stated it, the issue for the seventeen Southern states that receive more than $350 million annually for elementary and secondary school programs is: "INTEGRATE–OR LOSE FEDERAL $$."

The issue appears clear–and, to the uninitiated, simple. Yet enforcement of Title VI is a complex matter. Its purpose is to build, not to destroy, to liberate, not to erect barriers. But harsh and unsympathetic enforcement of the letter of the law could be destructive. It could deny federal support to those children most desperately in need of it–and in the process exacerbate sectional feelings far beyond anything we have seen to date. Yet the law must be enforced.

Aware of the complex responsibility assigned to it, the Office of Education has moved with its own version of "all deliberate speed." To date it has been more notable for its caution than for its accomplishment in providing specific direction to school authorities faced with the necessities of radical change under Title VI.

There are, to be sure, good reasons for caution. An official statement of well-defined standards for desegregation would almost certainly be interpreted as an acceptable minimum, and few if any school districts would feel obliged to move beyond them. Nor is it reasonable to expect equal action from communities in Mississippi or Alabama and those in Kentucky or Tennessee. Yet it is difficult to justify unequal enforcement of the law. Meanwhile, Southern school authorities are not receiving the guidance they need in charting their course in unfamiliar waters.

The following memo is designed to provide specific guidelines to school authorities seeking to meet the terms of Title VI of the Civil Rights Act. It was prepared by G. W. Foster, Jr., professor of law at the University of Wisconsin and consultant to the Office of Education, who has long been deeply concerned with the problems of education. Mr. Foster's memo has no official status and does not bind the Office of Education in any fashion. Yet there is no doubt that it reflects directly the thinking of the officials charged with the responsibility for enforcement of Title VI as it applies to education.

SR hopes that Southern school authorities will find these guidelines helpful in making the fateful decisions that confront them. And Northern readers will find, in the calm words and careful analysis of the memo, a clear view of the issues as they have evolved to date.

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THE ISSUE posed for Southern schools by Title VI of the 1964 Civil Rights Act is not *whether* they will desegregate. It is whether they will desegregate with–or without–continuing federal financial assistance. Even if federal aids are discontinued, segregated school districts still face the prospect of private litigation brought on behalf of Negro pupils in the community. And the Civil Rights Act increased the inevitability of desegregation by authorizing the Attorney General to bring suit in the name of the United States.

This memorandum is designed to furnish some guidelines to school authorities seeking compliance with Title VI. It stresses the points with which a desegregation plan must deal, illustrates ways in which particular procedures must be described, and suggests something of the range of choice open to a school district. What it cannot do is guarantee approval by the Commissioner of Education.

According to regulations promulgated by the Department of Health, Education and Welfare to implement the nondiscrimination policy of Title VI, school districts which seek to qualify for future federal aids must select among three courses of action:

1. "Form 441" Assurance of Compliance. This is an unqualified assurance that no discrimination whatever is practiced within the district. The 441 Assurance is largely inapplicable to districts in the seventeen states which in 1954 maintained legally separated Negro and white schools since in only a very few southern school districts have the last vestiges of the dual school system been eradicted. The Office of Education is returning for further information all 441 Assurances it receives from districts not fully desegregated and presumably a plan of desegregation rather than a 441 Assurance will be required in order to comply with requirements of Title VI.

2. Plan for the Desegregation of the School System. The regulations implementing Title VI will allow future approvals of federal aids for a district which submits to the Commissioner of Education a suitable plan for removing whatever discrimination remains in the school system. For the great bulk of the biracial school districts of the South the only effective way to continue receiving federal aids lies in submitting a plan of desegregation.

3. Court Order for Desegregation of the School System. The regulations also authorize continuation of aids to districts which are operating under a final order of a court of the United States for the desegregation of the school system. It is crucial to note that the order must be one directing desegregation of the school system; an order merely directing admission of a few named individuals, for example, without otherwise providing for desegregation of the system,

will not suffice. Despite more than a decade of litigation only a small fraction of the South's biracial districts were acting under court-ordered desegregation plans when the regulations implementing Title VI were promulgated.

The major issues facing desegregating school districts are highlighted below, together with some guidelines to the procedures that may be followed.

In general, it seems clear that no tersely stated or vaguely defined plan will be approved. What must be done in any plan is to spell out enough detail so that there can be general understanding of the situation and problems in the district, of the policies and procedures designed to deal with the problems, and of the district's intentions to carry out the plan in good faith.

On all these points the burden of persuasion is on local school authorities. Each school district's plan must sell itself.

I. Summary Statement of Present Racial Situation in District Schools

All plans for desegregation or final court orders submitted to the U.S. Office of Education for compliance with the Civil Rights Act of 1964 should be accompanied by a summary statement describing the racial picture in the district schools at the time the plan is submitted. As an alternative, the questionnaire on page 78 may be used, with the district adding to the questionnaire whatever further information it believes appropriate.

The reason for this demand is that rational appraisal of any desegregation plan is impossible without a general picture of the circumstances in the district when the plan is submitted. The questionnaire covers the minimum information needed to tell the story. But if the district intends to make use of geographic attendance zones or if busing is to be employed, maps and statistics which show the general racial characteristics of the proposed arrangement are essential.

Lest there be undue concern that too great a burden is imposed by having to supply this much information, it should be understood that precise, up-to-the-minute statistics are not required. The information needed is the kind that knowledgeable school authorities are aware of in general terms. It is enough that what is supplied is what fair-minded school officials believe to be true and what reasonable men would think necessary to know in order to judge a desegregation plan rationally.

II. Types of Desegregation Plans: General Characteristics

Most school desegregation plans evolved since 1954 are based either on geographic attendance zoning or freedom of choice. Some plans combine features of geography and choice and occasionally it has been suggested that pupils should be assigned to schools according to achievement or ability test scores. While in many districts pupils are separated according to achievement, ability or vocational interests for some purposes, no widespread use has been made of these characteristics as the basis of plans for desegregation, though presumably they would suffice if operated in good faith without discrimination based on race.

Because geographic zoning and freedom of choice provide the usual bases for desegregation plans this memorandum concentrates on the features of these two types.

A. Assignment by Geographic Zoning

Throughout the country geographic zoning is the common means for assignment of pupils to schools. In the dual systems of the South prior to 1954, separate (and often overlapping) geographic zones were widely used to assign Negro pupils to Negro schools and white pupils to white schools.

Since desegregation involves doing away with these separate Negro and white schools, the use of geographic zoning to accomplish this result requires the establishment of a unitary rather than dual system of attendance zones. Or put in the form of an example, all elementary schools of the district, whether formerly Negro or white, would have to be zoned on a single map without any overlapping of attendance zones.

Plans approved by courts in earlier years introduced unitary zoning on a grade-a-year or other stairstep basis. The questionable status of grade-a-year plans at present should give pause to any serious thought about using them, and any district must weigh carefully the factors discussed in Section VI of this memorandum as to any discriminatory practices preserved after fall 1965.

For many administrative purposes the relative simplicity of geographic zoning gives it evident advantages over assignment based on freedom of choice. It provides a relatively accurate way of forecasting future enrollments and is a direct method for shifting pupil populations to adjust for overcrowding.

Across the South the courts have uniformly held that assignment by attendance zones satisfies constitutional requirements for doing away with dual systems of schools, provided it is not used with the motive of producing racially invidious results. The fact that school authorities have the burden of explaining away circumstantial evidence of discrimination means that care should be taken to zone schools in ways which minimize instances in which suspicions of racial discrimination are likely to be aroused. And this is not an easy task.

The following examples illustrate situations likely to cause trouble: Oddly formed zones raise doubts, particularly where they coincide with racial boundaries between neighborhoods; indeed any zone lines coinciding with racial boundaries call for some explanation. Trouble comes also from creating optional attendance zones in racially mixed neighborhoods; certainly some special explanation is needed for any rule which permits out-of-zone attendance for residents of some but not all school zones.

Plans using geographic zoning should initially assign all pupils to the school in their zone of residence. Whatever transfer policies are available for attending outside the zone of residence should be open to Negroes and whites alike on the same terms and by the same means. The provision, sustained for a time in the courts, for permitting transfers to children who would be in a racial minority within their attendance zone school or classroom, has been struck down as a device to preserve segregation and will not do.

B. Assignment Based on Freedom of Choice

Desegregation plans based on freedom of choice are perhaps no more than transitional devices that ultimately will give way to unitary zoning. In theory, freedom of choice is unobjectionable. The practical difficulty is that the choice open may not in fact be free and school authorities who are considering freedom of choice plans have a special responsibility to assure themselves before adopting them that they can be carried out in good faith. Particularly is this true

(Continued on page 76)

Title VI—Nondiscrimination in Federally Assisted Programs

Section 601 of the Civil Rights Act of 1964 provides that: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

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where ingrained community custom is likely to result in economic reprisals or threats to parents and children.

Recently, Federal courts have directed some districts to install unitary geographic zoning where it was shown that freedom-of-choice plans adopted earlier failed to affect the dual school pattern. But at present, plans based on freedom of choice appear sufficient to meet the requirements of Title VI, provided pupils are afforded a choice which is free and unfettered by past or present practices.

Thus a choice of schools is not free where a pupil is initially assigned to a school on the basis of race and then is provided only a limited right to transfer to another school. For this reason Pupil Assignment Laws, by themselves, do not constitute acceptable plans of desegregation.

Again, a choice is not free where administrative practices within the school system make the exercise of choice a burden by requiring parents either to go through the ordeal of complex forms or discomfiting interviews. It would also be an improper burden to require a pupil to register at a place reserved for his race even though he was subsequently permitted to enroll at a school of his choice; the answer here is that the pupil should be permitted to apply directly to the school he desires to attend.

Somewhat different problems are presented in handling transfers and re-assignments of children already enrolled in school. One reasonable way to handle the matter is to have the necessary forms and instructions distributed by the classroom teachers in the schools the pupils presently attend—provided that neither the teachers nor other school authorities attempt to influence or pressure anyone in the exercise of choices to be made.

School districts which attempt to combine freedom of choice with geographic zoning face special problems. Where freedom of choice furnishes the theoretical basis for assignment, every pupil in the district should be provided with a right to choose either a formerly white or formerly Negro school. If overcrowding results from the choices made, racial considerations cannot be employed to reject those who initially select the school threatened with overcrowding; geographic proximity to the school should then be employed in determining which choices to reject. Where such choices are thus rejected, further opportunity should be provided each parent and child to make another choice which can be carried out effectively. In other words, if freedom of choice is to be adopted, geographic zoning cannot be employed to prevent an effective choice of either a formerly white or formerly Negro school.

In light of the ease and convenience of administering geographic attendance zoning it may be realistic for many districts to employ a combination which gradually adds unitary zoning to a desegregation plan which initially relied principally on freedom of choice. For example, unitary geographic zoning could be employed for initial assignment and re-assignment commencing with the lower elementary grades, while a policy of freedom of choice is applied to the remaining grades of the system. Over a fairly short period of time the unitary system of zoning would be moved upward through the other grades, supplanting freedom of choice.

In short, freedom of choice plans are probably no more than a transitional device. Districts, in view of this, should give serious thought either to going directly to unitary systems of zoning or to introducing unitary zoning at lower grade levels from the beginning, expecting to move the unitary zoning upward to replace the freedom of choice policy first installed at higher grade levels.

III. Detailed Statement of Administrative Practices; Public Notice

Rational appraisal of a desegregation plan (or a court order for desegregation) is likewise impossible unless the plan itself sets forth enough detail to dispel doubts about the manner in which nondiscriminatory policies will be administered.

The written instructions to school districts furnished by the Department of Health, Education and Welfare make two points clear. First, there can be no discrimination practiced in desegregated grades as to questions of initial assignment, reassignment or transfer. Second, sufficient advance notice must be given so that parents can understand how the assignment and transfer rules work and can take advantage of them effectively.

It is a common reaction among school officials and other local authorities facing their first school desegregation that disaster will follow if public announcement is made of rules and procedures for making initial assignments and transfers. The answer to this is that the courts have consistently required clear and ample notice to be given—and the consequences have not been disastrous for communities that have made plain their intention to brook no disorder and to see to it that the rules are given firm and faithful implementation.

A frequent shortcoming of the desegregation plans initially forwarded to the Office of Education has been the failure to set out in any detail either the administrative specifics or the content, timing and manner of providing notice of assignment and transfer rights. Below, for illustrative purposes, are model forms of notice which set out the administrative details for handling four problems common to every system of schools. The models in question were designed for desegregation plans based on freedom of choice and would have to be adapted to fit the particular policy variations within any particular district. Too, the models would have to be altered to be made applicable to desegregation plans grounded on unitary geographic zoning.

The point to be stressed here is that every desegregation plan must deal specifically with providing notice of administrative details respecting initial assignment, reassignment and lateral transfer. Plans which fail to spell out the procedures and forms of notice for these four situations simply cannot be judged and thus no favorable action can be taken on them.

The following examples illustrate one way in which matters of notice, initial assignment, reassignment and transfer may be handled:

A. Pre-Registration of Pupils Planning to Enroll in Lowest Elementary Grades.

(1) Beginning ..... 1965 (a date at least four weeks before pre-registration is to commence) and once a week for three successive weeks the announcement below shall be conspicuously pub-

Federal Educational Expenditures

During fiscal year 1964, the federal government spent $351,110,000 for aid to elementary and secondary school programs in the seventeen Southern states. State-by-State expenditures are listed below. If the President's education program, now before Congress, is passed in substantially its present form, these amounts would be approximately doubled.

State	*Amount (in thousands)*
Alabama	$29,463
Arkansas	10,202
Delaware	2,671
Florida	27,187
Georgia	27,872
Kentucky	17,514
Louisiana	16,021
Maryland	24,668
Mississippi	12,548
Missouri	17,263
North Carolina	27,914
Oklahoma	17,098
South Carolina	15,802
Tennessee	19,290
Texas	44,241
Virginia	36,147
West Virginia	5,509

lished in two newspapers having general circulation in the district:

PRE-REGISTRATION OF KINDERGARTEN/FIRST GRADE PUPILS FOR FALL 1965

Pre-registration of pupils planning to enroll in kindergarten/first grade (as appropriate for schools in the district) for the fall 1965 semester will take place for a period of .... days, from .... 1965 through .... 1965. Under policies adopted by the Board of Education, parents or guardians may register pupils during this period at the school of their choice. At the time of pre-registration a choice may be expressed for either the nearest formerly Negro school or the nearest formerly white school. In the event of overcrowding, preference will be given without regard to race to those choosing the school who reside closest to it. Those whose choices are rejected because of over-crowding will be notified and permitted to make an effective choice of a formerly Negro or formerly white school.

The choice is granted to the parent or guardian and the child. Teachers, principals and other school personnel are not permitted to advise, recommend or otherwise influence the decision. Nor will school personnel either favor or penalize children because of the choice made.

Children not pre-registered in spring may be registered at the school of their choice on . . ., immediately prior to the opening of schools for the fall 1965 semester, but first preference in choice of schools will be given to those who pre-register in the spring period.

(2) Annually after 1965, similar practices will be followed with respect to registering and enrolling pupils for the first time in the lowest elementary grades.

B. All Other Pupils Newly Enrolling in District Schools.

The Office of the Superintendent will furnish at such times as are appropriate to the parents or guardians of all other pupils newly enrolling in the schools of the district the forms and instructions necessary to complete registration and enrollment at the school of their choice. These instructions for registration and enrollment of new pupils shall be in writing and shall set forth in detail the Board of Education policies and procedures for registering and enrolling in the school of their choice (see form of published notice under Part A above).

C. Pupils Graduating From Elementary and Junior High Schools.

The initial assignment of pupils graduating either from elementary or junior high schools and planning to enroll for the first time in a school at the next higher level will be handled in the following manner:

All such pupils will be furnished by their classroom teachers on a date fixed by the Superintendent prior to their graduation the appropriate instructions and forms on which their parents or guardians may exercise their choice of the school next to be attended by the pupils. A reasonable time will be provided for returning the form after it has been distributed and the written instructions accompanying the form shall set forth in detail the Board of Education policies permitting a free choice of the school next to be attended (see form of published notice under Part A above). Where no choice is exercised by the parents or guardians within the time fixed, the pupil will be assigned without regard to race to the next higher school, and the instructions furnished parents and guardians shall so state.

D. Lateral Transfers by Pupils Eligible to Continue in a School Where Currently Enrolled.

Prior to the end of classes for each school year pupils eligible to continue in the same school will be assigned for the forthcoming year. At a date fixed by the Superintendent and appropriately in advance of the time that reassignment for the forthcoming year is made, all pupils will be furnished by their classroom teachers with appropriate forms and instructions for use by their parents in exercising their right to apply for a transfer of their child to a school of their choice for the forthcoming year. Such instructions will set forth in detail the Board of Education policies respecting transfers without regard to race for the forthcoming year (see form of published notice under Part A above) and will state that each child will be reassigned to the school currently attended in the event the right of lateral transfer is not exercised within the time fixed in the instructions. The instructions may also provide for lateral transfer at other times of the year under special circumstances as may be fixed by the Superintendent under the Board's direction.

IV. Buses and Bus Routes

Districts which provide busing must make special provision in their plans to make clear that discriminatory practices are removed. In dual school systems it has been customary in many instances for separate buses to travel the same roads, one to pick up Negroes for the Negro school and the other to take whites to a different school. Again, separate bus routes for Negro and white schools have operated in some instances to place individual children of either or both races under the burden of going to a distant pick-up point for their own race when a pick-up point for the opposite race was much more convenient.

Such policies and practices, supported with public funds, result in manifest racial discrimination and if continued can seriously impair the right freely to choose a school without regard to race. Desegregation plans must accordingly spell out in detail the present racial character of busing practices, indicate the steps which will be taken to create unitary systems of busing available to all pupils without regard to race, and describe the manner in which parents or guardians and pupils will be given notice of the right to ride buses without regard to race.

V. Teacher and Staff Desegregation

Desegregation of teachers and professional staffs is ultimately in the picture. It was characteristic of the legally separated schools that Negro teachers were assigned to Negro schools, white teachers to white schools. In general the courts have permitted desegregation of pupils to take precedence over desegregation of teachers and staff personnel in the schools. More recently, however, courts have been ordering districts to undertake teacher integration as part of the total job of desegregating.

As the court cases deal with the problem, pupils have been permitted to challenge faculty segregation on several grounds. First, pupils cannot be discriminated against on the basis of their race and hence pupils have a right to insist that a teacher not be assigned them on the basis that the teacher's race corresponds to their own. Second, it has been objected that the existence of all Negro and all white faculties restrains freedom of choice, given traditional community patterns. Finally, it is objected that segregated faculties and teaching staffs are evident vestiges of the dual schools and that a district cannot be said to have a unitary character until patterns of teaching and staff segregation are broken up.

The problem is one which every district must face and start working on. Every desegregation plan should reveal awareness of the problem and provide assurance that steps will be taken to remove racial discrimination in assignment of teaching personnel.

VI. Rate of Desegregation: How Many Grades to Desegregate?

It is difficult to advise with certainty concerning the rate at which desegregation must be completed. For one thing, the courts have ordered a speeding up in districts which first began at slow year-to-year paces. At the same time, courts have allowed some districts to break the ice by starting with a shorter step toward full desegregation the first year than will be required of them thereafter.

Whatever the date of completion, any plan of desegregation must sketch

Compliance Information: Nondiscrimination in Federally Assisted Programs---

This outline is furnished as an aid in reporting information generally helpful in appraising the sufficiency of plans for desegregation of school districts which seek compliance with the nondiscriminatory policy of Title VI of the Civil Rights Act of 1964. Precise, up-to-the-minute statistics are not required. The information sought is the kind that knowledgeable school authorities are aware of in general terms and approximations will suffice where exact detail is not easily available.

I. Racial Characteristics of School Population

A. By race, what are the approximate school-age populations residing within the geographic boundaries of the school district (including residents who attend public schools outside the district or private school within or without the district)? White_____; Negro_____; Other_____.

B. How many Negroes presently attend predominantly white schools?_____.

C. How many whites presently attend predominantly Negro schools?_____.

D. By grade level, approximately how many Negro pupils presently attend classes with whites in the public schools of the district (strike out grades not actually taught in district schools)? Kindergarten_____; 1st grade_____; 2nd_____; 3rd_____; 4th_____; 5th_____; 6th_____; 7th_____; 8th_____; 9th_____; 10th_____; 11th_____; 12th_____.

E. How many pupils attend public schools outside the district on a tuition-paid basis? White_____; Negro_____; Other_____.

F. How many pupils residing in the district presently attend private schools on a tuition-grant basis? White_____; Negro_____; other_____.

G. Where separate treatment is accorded any other non-white groups besides Negroes, please indicate the general situation on a separately attached sheet.

II. Racial Characteristics of District Schools

A. What is the number of elementary schools (grades _____ through _____) in which the pupils enrolled are: all white_____; all Negro_____; integrated_____; other (describe on a separate sheet)?

B. What is the number of junior high schools (grades _____ through _____) in which the pupils enrolled are: all white _____; all Negro_____; integrated_____; other (describe on a separate sheet)?

C. What is the number of high schools (grades _____ through _____) in which the pupils enrolled are: all white_____; all Negro_____; integrated _____; other (describe on a separately attached sheet)?

D. Briefly describe on a separately attached sheet the general racial characteristics of the pupil populations in any special schools operated by the distirct which are not accounted for in the categories set out above.

III. Racial Characteristics of Teaching and Administrative Staffs

A. By race, what is the approximate number of teachers in the district who are: white_____; Negro_____; other_____?

B. By race, what is the approximate number of non-teaching staff members who are: white_____; Negro_____; other_____?

C. How many elementary schools have teaching staffs which are: all white _____; all Negro_____; integrated_____; other (describe separately)?

D. How many junior high schools have teaching staffs which are: all white _____; all Negro_____; integrated_____; other (describe separately)?

E. How many high schools have teaching staffs which are: all white_____; all Negro_____; integrated_____; other (describe separately)?

IV. Maps

Maps, which need not be of professional quality, can be separately furnished where useful or perhaps necessary to demonstrate such things as school location, bus routes. Supply these separately where this is thought desirable to demonstrate particular characteristics of a desegregation plan.

V. School Bus Routes and Practices

Where school buses are supplied fc. some or all pupils, describe in a general way on a separate sheet the effect which the routes and stops made by the buses have on the racial characteristics of the district's schools.

Date_____ Name of District_____

_____

out the steps needed to finish the job. For the purpose of securing funds for the coming year, however, the steps to be taken in the fall of 1965 are, perhaps, the most critical single part of the overall plan. The HEW regulations make it clear that any plan accepted may be reviewed in later years.

Some general guidelines may be helpful, however:

Neither Title VI nor the regulations adopt court rulings as the standard to be followed by the Commissioner of Education. But under the regulations the Commissioner must accept court ordered plans of desegregation and it would appear unlikely that he will accept less than required by judicial standards in passing on voluntary plans.

The U.S. Courts of Appeal have played a major role in rationalizing the differences among lower court reactions to desegregation plans. In the absence of a more precise indication for the Office of Education, the rulings of the Courts of Appeal probably furnish the best approximate guides at hand. But in looking to court decisions several things must be borne constantly in mind. First, what the courts ordered for fall 1964 is not likely to be the same they will order for fall 1965; there has been a marked judicial trend toward accepting less delay as the years pass. Second, since the Commissioner of Education is free to reach an independent judgment, he is certainly not bound to follow lower court rulings which call for the most minimal amounts of desegregation.

Last year, for the opening of schools in 1964, the Court of Appeals for the Fifth Circuit laid down a general formula for newly desegregating districts which suggested (a) that desegregation had to take place both from the bottom up and the top down simultaneously and (b) that a total of four desegregated grades for fall 1964 was expected. In the Fourth Circuit on the other hand some Federal courts have insisted upon applying a freedom of choice program throughout every grade level in the first year of desegregation.

It can be said with certainty that no plan will be approved which works exclusively from the top down. It will be essential for approval that there be in all instances desegregation which begins without restriction in the lowest grade levels of the school system. To avoid misunderstanding, any district which has a desegregation program which works from the first grade up must either apply the policy to pre-school clinics and kindergartens or state that classes at these levels are not held.

Each district must carry the burden of justifying any delay beyond fall 1965 in completing its desegregation plan. This is true of districts which have already experienced some desegregation.

It is also true for districts which have yet to take the first step.

Clearly, the surest course is to make the desegregation program available generally to all grades for fall 1965. If less than this is done, desegregation should be installed both from the bottom of the system upward and from the top down. The real question for any district is the extent to which it wishes to risk disapproval of its plan.

VII. Consultants and Technical Assistance

Other provisions of the Civil Rights Act of 1964 make available funds to assist school districts in designing and carrying out plans of desegregation. The U.S. Office of Education currently retains a group of legal consultants who can be called on by school districts who request such assistance. State Departments of Education, in complying with Title VI, agree to provide advice and assistance to local school authorities in working out desegregation problems and the State Departments may arrange ways for providing further guidance through the use of consultants and others. Questions concerning such help should be addressed to the State Departments of Education or to the U.S. Office of Education.

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